

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

KIMODALE, INC. d/b/a HUNT §
FOOD STORE and HAKIM §
ALHADDAD; §
Plaintiffs, §
§
v. § CIVIL ACTION NO. 3:16-CV-2133-K
§ Honorable Judge David C. Godbey
§
CHEVRON USA, INC.; §
R&R SULEIMAN, LLC; §
ENIGMA ENTERPRISES, INC.; and §
JPKP, INC.; §
Defendants. §

**PLAINTIFFS' EMERGENCY MOTION TO REMAND;
PLAINTIFFS' REQUEST FOR 28 U.S.C. § 1447(c) ATTORNEY FEES; AND
PLAINTIFFS' MOTION FOR LEAVE TO AMEND, IN THE ALTERNATIVE**

TO THE HONORABLE JUDGE DAVID C. GODBEY:

COME NOW, Plaintiffs, KIMODALE, INC. d/b/a HUNT FOOD STORE and HAKIM ALHADDAD, and files this **PLAINTIFFS' EMERGENCY MOTION TO REMAND** (hereinafter individually referred to as "MTR"); **PLAINTIFFS' REQUEST FOR 28 U.S.C. § 1447(c) ATTORNEY FEES** (hereinafter individually referred to as "Request"); and **PLAINTIFFS' MOTION FOR LEAVE TO AMEND, IN THE ALTERNATIVE** (hereinafter individually referred to as "MFL" and, along with MTR and Request, collectively referred to as "Motions") against Defendants.

Pursuant to Local Rule 7.1 and 7.2 of the Local Rules of the Northern District of Texas, Plaintiffs state that the matters required by Local Rule 7.1—Motion Practice and 7.2—Briefs are set forth in Plaintiffs' Brief in Support of Plaintiffs' Emergency Motion to

Remand; Plaintiffs' Request for 28 U.S.C. § 1447(c) Attorney Fees; and Plaintiffs' Motion for Leave to Amend, in the Alternative (hereinafter referred to as "Brief") and in Plaintiffs' Appendix in Support of Plaintiffs' Emergency Motion to Remand; Plaintiffs' Request For 28 U.S.C. § 1447(c) Attorney Fees; and Plaintiffs' Motion for Leave to Amend, in the Alternative (hereinafter referred to as "Appendix"). Plaintiffs incorporate by reference their Brief and Appendix as though set forth fully herein.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs ask the Court to consider Plaintiffs' Motions by submission hearing, as the impropriety of Chevron's removal is apparent from the face of Chevron's Notice of Removal, as set forth in Plaintiffs' Brief¹. However, should this Court find that an evidentiary hearing is necessary, Plaintiffs requests that this Court schedule same at its earliest convenience².

WHEREFORE, PREMISES CONSIDERED, Plaintiffs ask the Court to grant Plaintiffs' Motion to Remand and remand this case to **Cause No. CC-16-03018-E; KIMODALE, INC. d/b/a HUNT FOOD STORE, et al. v. Chevron U.S.A., Inc., et al.**; In The County Court of Law No. 5 of Dallas County, Texas.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs ask the Court to grant Plaintiffs' Request and award Plaintiffs attorney fees in the amount of \$10,500, pursuant to 28 U.S.C. § 1447(c).

WHEREFORE, PREMISES CONSIDERED, Plaintiffs ask this Court to grant Plaintiffs' MFL, pursuant to 28 U.S.C. § 1441(a); (b), Fed. R. Civ. P. 15(a)(2), and remand this case to **Cause No. CC-16-03018-E; KIMODALE, INC. d/b/a HUNT FOOD STORE, et al. v. Chevron U.S.A., Inc., et al.**; In The County Court of Law No. 5 of Dallas County, Texas.

¹ See *Bell v. Taylor*, 509 F.2d 808, 810 (5th Cir. 1975).

² See *Jerguson v. Blue Dot Inv.*, 659 F.2d 31, 35 (5th Cir. 1981).

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray for such further and additional relief, at law and in equity, to which they may show themselves justly entitled

Respectfully submitted,

GILDE LAW FIRM, PLLC



BRADFORD J. GILDE
TSB#: 24045941 | SDTX#: 954906
Mailing: 5535 Memorial Drive | Suite F #154
Houston | TX | 77007
Physical Office: 3006 Brazos Street
Houston | TX | 77006
Phone: 281-973-2772
Facsimile: 281-973-2771
Email: BJJ@GildeLawFirm.com

—AND—

LAW OFFICE OF CARMEN S. MITCHELL, LLP

s/ Carmen S. Mitchell

CARMEN S. MITCHELL
TSB#: 14206300
50 North Saint Paul St. | Suite 1800
Dallas | TX | 75201
Phone: 214-751-8218
Facsimile: 214-651-8506
Email: CMitchell@mitchellgoff.com

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

On this day, August 21, 2016, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel

and/or *pro se* parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5 (b)(2).



BRADFORD J. GILDE

CERTIFICATE OF CONFERENCE & COMPLIANCE WITH LOCAL RULE 7.2(b)

I hereby certify that I have conferred with Defendants, as set forth in the email exchange below that sets forth the date of the conference, the identity of the attorneys conferring, and the request for agreement. Pursuant to Local Rule 7.2(b), Plaintiff has conferred with Defendants regarding Plaintiffs' Motions, and no agreement could be reached. As such, the filing of PLAINTIFFS' EMERGENCY MOTION TO REMAND; PLAINTIFFS' REQUEST FOR 28 U.S.C. § 1447(c) ATTORNEY FEES; and PLAINTIFFS' MOTION FOR LEAVE TO AMEND, IN THE ALTERNATIVE against Defendants and this Court's consideration is necessary, as Plaintiffs' Motions are OPPOSED.

EMAIL CONFERENCE

From: Bradford Gilde [<mailto:bjg@gildelawfirm.com>]
Sent: Wednesday, August 17, 2016 11:46 AM
To: Thompson, Chris; Davidson, Charlene; Sparks, Kim; John Gitlin; Joyce Lindauer; dian@joycelindauer.com; legalbug3@aol.com; Wahl, Pete; Brock, Shelisa
Cc: Bradford Gilde; Allen Mills
Subject: Kimodale Inc v. Chevron USA Inc et al--Conference

All Counsel, on behalf of your clients, please advise whether you are agreed to the following:

1. Plaintiffs filing a Motion to Remand to state court.
2. Plaintiff's requesting 28 U.S.C. § 1447(c) Attorney Fees against Chevron for its removal to state court.
3. Plaintiff's filing a Motion for Leave to Amend Plaintiffs' Petition to delete the single citation to 42 USC 6901 and reference to "federal" so that the case may be remanded to state court.
4. In the alternative, please advise that you agree not to move for summary judgment on any 42 USC 6901 claim for lack of pre-suit notice, as you did in the R&R Suleiman case.

If I do not hear from you by Thursday, August 18, 2016 by 5:00 PM (CST), I will assume you do not agree and are opposed to the above. Thank you.

Bradford J. Gilde

From: Thompson, Chris [mailto:cthompson@jw.com]
Sent: Thursday, August 18, 2016 11:11 AM
To: Bradford Gilde <bjg@gildelawfirm.com>; Davidson, Charlene <cdavidson@jw.com>; Sparks, Kim <ksparks@jw.com>; John Gitlin <johngitlin@gmail.com>; Joyce Lindauer <joyce@joycelindauer.com>; dian@joycelindauer.com; legalbug3@aol.com; Wahl, Pete <pwahl@jw.com>; Brock, Shelisa <ssbrock@jw.com>
Cc: Allen Mills <am@gildelawfirm.com>
Subject: RE: Kimodale Inc v. Chevron USA Inc et al--Conference

Mr. Gilde,

Chevron is opposed to the items in your email below.

From: "John Gitlin" <johngitlin@gmail.com>
Subject: RE: Kimodale Inc v. Chevron USA Inc et al--Conference
Date: August 18, 2016 at 11:48:22 AM CDT
To: "Thompson, Chris" <cthompson@jw.com>, "Bradford Gilde" <bjg@gildelawfirm.com>, "Davidson, Charlene" <cdavidson@jw.com>, "Sparks, Kim" <ksparks@jw.com>, "Joyce Lindauer" <joyce@joycelindauer.com>, <dian@joycelindauer.com>, <legalbug3@aol.com>, "Wahl, Pete" <pwahl@jw.com>, "Brock, Shelisa" <ssbrock@jw.com>
Cc: "Allen Mills" <am@gildelawfirm.com>

Enigma Enterprises Inc. and JPKP Inc. also are opposed.

[NO RESPONSE FROM R&R SULEIMAN, LLC]



BRADFORD J. GILDE